

~~CONFIDENTIAL~~

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN A. MACGREGOR,

Plaintiff,

v.

DR. MARTIN, et al.,

Defendants.

No. C 13-2309 RMW (PR)

ORDER DIRECTING PLAINTIFF TO
PROVIDE COURT WITH MORE
INFORMATION FOR DEFENDANTS

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint against prison officials at San Quentin State Prison (“SQSP”), pursuant to 42 U.S.C. § 1983. The court ordered service of plaintiff’s civil rights complaint upon defendants. (Docket No. 7.) Notices of lawsuit and requests for waiver of service of summons were returned for defendants Nurse Yan and Dr. Martin because the defendants were “not at San Quentin.” (Docket Nos. 9 and 10.) Accordingly, defendants Nurse Yan and Dr. Martin have not been served.

Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on service by the Marshal, such plaintiff “may not remain silent and do nothing to effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has knowledge.” Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, plaintiff’s complaint has been pending for

1 over 120 days, and thus, absent a showing of “good cause,” is subject to dismissal without
2 prejudice. See Fed. R. Civ. P. 4(m).

3 Because plaintiff has not provided sufficient information to allow the Marshal to locate
4 and serve defendants Nurse Yan and Dr. Martin, plaintiff must remedy the situation or face
5 dismissal of his claims against these defendants without prejudice. See Walker v. Sumner, 14
6 F.3d 1415, 1421-22 (9th Cir. 1994) (holding prisoner failed to show cause why prison official
7 should not be dismissed under Rule 4(m) where prisoner failed to show he had provided Marshal
8 with sufficient information to effectuate service). Accordingly, plaintiff must provide the court
9 with an accurate and current location for defendants Nurse Yan and Dr. Martin such that the
10 Marshal is able to effect service.

11 If plaintiff fails to provide the court with an accurate and current location for these
12 defendants within **thirty (30) days** of the date this order is filed, plaintiff’s claims against these
13 defendants will be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of
14 Civil Procedure.

15 IT IS SO ORDERED.

16 DATED: FEB 03 2014



RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KEVIN ANTHONY MACGREGOR,
Plaintiff,

Case Number: CV13-02309 RMW

CERTIFICATE OF SERVICE

v.

DOCTOR MARTIN MD et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 23, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kevin A. MacGregor V-94008
#11-147L
California State Prison - Solano
PO Box 4000
Vacaville, CA 95696

Dated: October 23, 2013

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk